

AO 243 (Rev. 09/17)

MOTION UNDER 28 U.S.C. § 2255 TO VACATE, SET ASIDE, OR CORRECT
SENTENCE BY A PERSON IN FEDERAL CUSTODY

United States District Court		District	Southern District of WV
Name (under which you were convicted):		Docket or Case No.:	
Natalie Paige Cochran		5:19-cr-00247	
Place of Confinement:		Prisoner No.:	
SFF Hazelton Bruceton Mills, WV		15406-088	
UNITED STATES OF AMERICA		Movant (include name under which convicted)	
V.		Natalie P. Cochran	

MOTION

1. (a) Name and location of court which entered the judgment of conviction you are challenging:

United States District Court
Southern District of West Virginia
At Beckley

(b) Criminal docket or case number (if you know): 5:19-cr-00247

2. (a) Date of the judgment of conviction (if you know): March 18th, 2021

(b) Date of sentencing: March 18th, 2021

3. Length of sentence: 135 months

4. Nature of crime (all counts):

Guilty Plea for Counts 6-Wire Fraud and 18-Unlawful Monetary Transaction

* Counts Dismissed	13-16 - Aggravated Identity Theft	26 - False Oath in Bankruptcy Hearing
1-5 - Wire Fraud	17 - Wire Fraud	
7-11 - Wire Fraud	19-24 Money Laundering	
12 - Bank Fraud	25 - Bankruptcy Fraud	

5. (a) What was your plea? (Check one)

(1) Not guilty ☐(2) Guilty ☒(3) Nolo contendere (no contest) ☐

6. (b) If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, what did you plead guilty to and what did you plead not guilty to?

Guilty for Counts 6 and 18 US Motion Dismissed 1-5, 7-17, 19-26

6. If you went to trial, what kind of trial did you have? (Check one)

Jury ☐Judge only ☐

7. Did you testify at a pretrial hearing, trial, or post-trial hearing?

Yes ☐No ☐

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8. Did you appeal from the judgment of conviction?

Yes ☒No ☐

9. If you did appeal, answer the following:

(a) Name of court: United States Court of Appeals for 4th Circuit(b) Docket or case number (if you know): 21-4170(c) Result: Dismissed on 10-8-2021(d) Date of result (if you know): 10-8-2021(e) Citation to the case (if you know): (5:19-cr-00247-1) No. 21-4170(f) Grounds raised: 3 issues (see record No. 21-4170 filed by David Schles on July 19th, 2021)

→ 1. Whether the court erred at sentencing by applying 2B1.1(b)(9)B and increasing the offense level by two levels

→ 2. Whether the court erred at sentencing by including intended loss to include amounts in excess of the loss victims actually incurred. (2B1.1(b)(1)(J))

→ 3. Whether procedural error was committed in holding a downward variance was permitted

(g) Did you file a petition for certiorari in the United States Supreme Court?

Yes ☐No ☒

If "Yes," answer the following:

(1) Docket or case number (if you know): _____

(2) Result: _____

(3) Date of result (if you know): _____

(4) Citation to the case (if you know): _____

(5) Grounds raised: _____

10. Other than the direct appeals listed above, have you previously filed any other motions, petitions, or applications, concerning this judgment of conviction in any court?

Yes ☒No ☐

11. If your answer to Question 10 was "Yes," give the following information:

(a) (1) Name of court: US Southern District of West Virginia(2) Docket or case number (if you know): 5:19-cr-00247(3) Date of filing (if you know): July 11th, 2022

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(4) Nature of the proceeding: 2255 Appointed Attorney Request

(5) Grounds raised:

① Failure of paid attorney to complete 2255, despite accepting payment. (Michael Clifford)

② COVID lockdowns preventing sufficient law library access.

③ No financial resources to pay a new attorney in a timely fashion. (Mr. Clifford has still not issued a full refund)

(6) Did you receive a hearing where evidence was given on your motion, petition, or application?

Yes ☐No ☒(7) Result: Denied(8) Date of result (if you know): ~ Aug 2022

(b) If you filed any second motion, petition, or application, give the same information:

(1) Name of court: _____

(2) Docket of case number (if you know): _____

(3) Date of filing (if you know): _____

(4) Nature of the proceeding: _____

(5) Grounds raised: _____

(6) Did you receive a hearing where evidence was given on your motion, petition, or application?

Yes ☐No ☐

(7) Result: _____

(8) Date of result (if you know): _____

(c) Did you appeal to a federal appellate court having jurisdiction over the action taken on your motion, petition, or application?

(1) First petition:

Yes ☐No ☒

(2) Second petition:

Yes ☐No ☐

(d) If you did not appeal from the action on any motion, petition, or application, explain briefly why you did not:

I didn't think that was an option on an attorney request.

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12. For this motion, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

GROUND ONE: Sentencing Ineffectiveness

* Please see attached memorandum regarding legal arguments.

- (a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

Counsel did not inform me, or my supporters*, that they were able to speak on my behalf.

Counsel did not object to the inaccurate statements made by the victims. I had given counsel proof of the mistruths after reading their letters to the judge. Counsel also did not object or file on the inaccuracies in the PSR. This includes incorrect loss amounts we discussed and had evidence were incorrect. Counsel did not allow my bankruptcy attorney to give a statement. This would have potentially removed that enhancement. He was also not

- (b) **Direct Appeal of Ground One:** Prepared to argue intended loss enhancement effectively.

- (1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☒ No ☐

- (2) If you did not raise this issue in your direct appeal, explain why:

- My appointed attorney raised two of them, but I signed
- (c) **Post-Conviction Proceedings:** a plea waiver and it was not entertained

- (1) Did you raise this issue in any post-conviction motion, petition, or application? See Record # 21-4170

Yes ☐ No ☐

- (2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

- (3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☐

* See attached Letters

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(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐

No ☒

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes ☐

No ☐

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue:

GROUND TWO:

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

(b) Direct Appeal of Ground Two:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐

No ☐

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(2) If you did not raise this issue in your direct appeal, explain why:

(c) **Post-Conviction Proceedings:**

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐ No ☐

(2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☐

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue:

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GROUND THREE: _____

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

(b) Direct Appeal of Ground Three:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐

No ☐

(2) If you did not raise this issue in your direct appeal, explain why:

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐

No ☐

(2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available):

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐

No ☐

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐

No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes ☐

No ☐

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(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue:

GROUND FOUR:

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

(b) Direct Appeal of Ground Four:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐

No ☐

(2) If you did not raise this issue in your direct appeal, explain why:

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐

No ☐

(2) If you answer to Question (c)(1) is "Yes," state:

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Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☐

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: _____

13. Is there any ground in this motion that you have not previously presented in some federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them: _____

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14. Do you have any motion, petition, or appeal now pending (filed and not decided yet) in any court for the you are challenging? Yes ☐ No ☒

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised.

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At the preliminary hearing:

Mr. Rhett Johnson - Federal Public Defender

(b) At the arraignment and plea:

" " - Rm 3400 300 Virginia Street East

(c) At the trial:

N/A - I did not go to trial

(d) At sentencing:

" " Rhett Johnson Charleston, WV 25301

(e) On appeal:

David Schles 815 Quarrier Street, Suite 306

(f) In any post-conviction proceeding: Charleston, WV 25301

* Michael Clifford Suite 1200 723 Kanawha Blvd, East

(g) On appeal from any ruling against you in a post-conviction proceeding: Charleston, WV 25301

- * Clifford was retained for the 2255 action, but did not follow thru.
16. Were you sentenced on more than one court of an indictment, or on more than one indictment, in the same court and at the same time? Yes ☒ No ☐

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? Yes ☐ No ☒

(a) If so, give name and location of court that imposed the other sentence you will serve in the future:

(b) Give the date the other sentence was imposed:

(c) Give the length of the other sentence:

(d) Have you filed, or do you plan to file, any motion, petition, or application that challenges the judgment or sentence to be served in the future? Yes ☐ No ☐

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18. **TIMELINESS OF MOTION:** If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2255 does not bar your motion.*

According to *Clay v United States*, 537 US 522, 532 (2003), I have one year and 90 days after my direct appeal is denied to file. My direct appeal was denied on 10/8/2021, thus I have until Jan 6, 2023 for my 2255 to be considered timely. *Latham v. United States*, 527 F.3d 651, 653 (7th Cir 2008) and Supreme Court Rule 135 (*United States v. Wall*, 456 F.3d 316, 318-20 3rd Cir 2006) also support this filing deadline.

* The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2255, paragraph 6, provides in part that:

A one-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of –

- (1) the date on which the judgment of conviction became final;
- (2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making such a motion by such governmental action;
- (3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
- (4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.

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Therefore, movant asks that the Court grant the following relief:

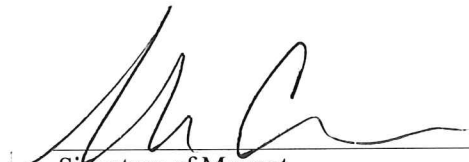
I would like a sentence reduction or a new sentencing.
or any other relief to which movant may be entitled.

NONE

Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Motion under 28 U.S.C. § 2255 was placed in the prison mailing system on December 12th, 2022.
(month, date, year)

Executed (signed) on December 12th, 2022 (date)


Signature of Movant

If the person signing is not movant, state relationship to movant and explain why movant is not signing this motion.

12/12/2022

Ground One - Legal Argument Memorandum

The plea waiver was signed prior to my date of sentencing. Thus, ineffectiveness of counsel at sentencing allows for a 2255 filing. The following cases support this argument.

- Strickland v Washington, 466 US 668, 695, 80 L. Ed. 2d 674 (1984)
- Lafler v Cooper, 132 S.Ct 1376, 182 L. Ed. 2d 398 (2012)
- Williams v Taylor, 529 US 362, 371, 120 S Ct 1495, 146 L. Ed. 2d 289 (2000)
- Johnson v Mitchell, 585 F.3d 923, 941-43 (6th Cir 2009)
- West v United States 994 F.2d 510 (8th Cir 1995)
- Cooper v Secretary, Dept of Corrections, 646 F.3d 1328, 1356 (11 Cir 2011)

During the bankruptcy fraud objection, my attorney told me, he spoke with Robert Dunlap, ESQ and would have him give a statement. He did not follow thru, despite Mr. Dunlap's willingness. I already knew I was in trouble. Mr. Johnson suggested I file bankruptcy. I was instructed not to list ~~and~~ any business holdings because everything had been seized and was no longer rightfully mine. Mr. Dunlap would have verified this with the court, but Mr. Johnson failed to call him.

My employer, Angie Martin and daughter, Nicole Cochran asked Mr. Johnson if they could speak.

pg 2.
He would not permit them. Mr. Johnson also said only victims could speak. My family and close friends wanted to speak in support, but he said it was not permitted.

Mr. Johnson also did not object to the inaccuracies on the PSR. Nor did he object to my business attorney, Christopher Davis giving a statement.

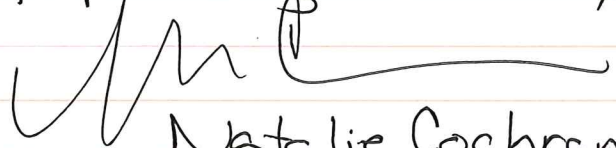
Lastly, Mr. Johnson did not properly argue the intended loss enhancement. Only actual loss should have been used instead of intended loss. Just recently in:

- United States v. Banks, No 19-3812 + 20-2235, 2022 WL 17333797 (3d Cir 2022)

a new precedent was set that the court can only use actual loss. This was accomplished through a proper argument by the defense. This should allow a reduction in my sentence through removing that enhancement.

I ask the court to assign me an attorney if this motion is granted to have merit. I have limited resources here and am not educated in legal matters.

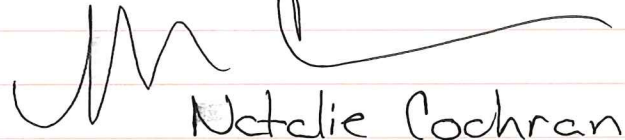
Thank you for your attention to this matter.

Respectfully Submitted;

Natalie Cochran

Honorable Judge Volk,

I am not sure how to fill out the application to proceed without fees. I am still pending bankruptcy and while my assets have been seized, my name is still listed on them. I do not want to make an error. Please allow me counsel to fill it out accurately.

Respectfully Submitted;



Natalie Cochran

To Whom It May Concern:

My name is Nicole Cochran, daughter of Natalie and Michael Cochran. My father passed away on February 11, 2019, and my mother was sentenced to 11 years in Hazelton in the spring of 2021. My life has had plenty of trials, but I have still maintained my strength. I am currently ranked number 1 in my senior class at Greenbrier East High School. This letter is not about me, however, but about the mishappenings pertaining to my mother's, Natalie Cochran's, trial.

I was the only of my family that was in attendance, alongside my mother's dear friend and boss Angela Martin, because Rhett Jonson believed it would look bad if my mother brought anyone- even my grandparents. It was evident as to why when the victims began to speak. Each person had at least 10 pages of ill words to say about my mother, many of which were untrue. For instance, Chris Davis- who was my parent's best friend, business attorney, and the man that was supposed to be my brother and I's legal guardian if our parents were no longer capable, spoke as if he was a victim of a crime that he knew "nothing about". I was witness to many occasions where conversations to the contrary took place, but no one looked any further into his words for he is so well known in Raleigh County. This was the case for all of the victims who spoke, including Donna Bolt who claimed to have a great relationship with her son Michael. They rarely spoke, and when they did it was typically argumentative.

I begged my mother's lawyer- along with Angela Martin, to allow me to speak against the defamation and lies that I had to sit and listen to. I pleaded with him to let me say my piece, to show that the words being thrown into the air were nothing but words. Yet again, Rhett said that it would only make the judge angry if I spoke, it would make my mother look even guiltier. I sat, and wept, for I knew I was going to lose her.

What I have found funny to this day is that the trial was broadcast into another courtroom where people that never even knew us or our circumstances were allowed to sit and watch. I received a great deal of bullying after this sentencing, and I have always contemplated if this would have been the case if the courtroom's attendance sheet was a bit more limited. The proceedings from the trial were blasted all over Facebook, and my fellow classmates read every, single post.

My mother, Natalie Cochran, had pleaded to only 2 counts, and did so because she was told by Rhett Johnson that by doing so she would probably receive 2.5 years. My mother received 11 years, due to the intended "loss" of victims, thus raising her sentence ten-fold. Some of the "victims" even made money off of the company, and there is evidence of this, but yet believed they deserved millions more due to the emotional distraught of the trial. My family was left with nothing. My brother and I lost friends, family members, and our father in only 3 years. All we wanted was our mother. I understand that justice must be served, but all I'm asking is for, on my mother's behalf, is the consideration of an appeal for a reduced sentence. We deserve at least that much.

Thank you for your time and consideration on this matter,



Nicole Cochran
(304) 896-1516
433 4-H Lake Rd, Daniels, WV 25832
P.O. Box 246

To Whom It May Concern:

12/15/2022

My name is Angela Martin and I own a shop in Lewisburg, WV, Tattered & Worn Antiques-Primitives. Natalie Cochran was able to work at my shop before her sentencing. She was quite the asset to have around. During her time here, we grew to become good friends.

On the day of Natalie Cochran's sentencing, it became evident that the appointed attorney, Rhett Johnson, was ready for this to be over.

He asked that Natalie not have her parents or anyone there during her sentencing, suggesting that it wouldn't be appropriate or in her best interest if they were there. He actually recommended that her children not be there, but that was ludicrous. She asked me if I could attend and be there with her daughter Nicole, and without hesitation I said yes.

When asked who could speak on her behalf, before the Honorable Judge Volk made the final decision on her sentencing, Rhett Johnson asked that if anyone did speak, to keep it short and sweet. Lacy Treadway did exactly that. She did as she was asked, and kept it very short. Unlike the others, that spoke against Natalie.

After setting there and listening to everyone speak, I was 100% disgusted. The mother of Natalie's husband, all but wrote a short sympathetic story, that we had to listen to. Others, spoke for MUCH longer, than Rhett had suggested Lacy speak.

I told Nikki (Nicole Cochran) that we had to do something. We needed to ask Rhett to please let us speak on Natalie's behalf. During an intermission, we were able to get Natalie's attention to ask Rhett if we could speak. We felt like this was our last chance to say what needed to be heard. Rhett's answer to this, was no! Nikki and I were devastated. She had every right to get up there and defend her mother.

I feel like his efforts, with the sentencing of Natalie Cochran were 100% appalling. He did not fulfill his obligation to Natalie. There was no fight in this battle from him. It was heartbreaking to realize he was done with this case. There was nothing Nikki or myself could do at this point.

I honestly feel like had things been different the outcome would have been also. I hope that there is another opportunity to fight for what is right, and that she/we are able to defend the lies that were told in that court that day.

Sincerely,



Angela D. Martin
688 Hamilton Rd.
Ronceverte, WV 24970
304-646-2284

NATALIE P. COCHRAN

15406-088

SFF Hazelton

PO Box 3000

Bruceton Mills WV 26525



Honorable Frank W Volk

Robert C Byrd US Courthouse

110 North Heber St. Rm 334

Beckley, WV 25801